

# **EXHIBIT 2**

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

JOHN GALVAN,	)	Docket No. 23 C 3158
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
VICTOR SWITSKI, et al.,	)	Chicago, Illinois
	)	February 8, 2024
Defendants.	)	9:18 o'clock a.m.

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE MATTHEW F. KENNELLY

APPEARANCES:

For the Plaintiff: LOEVY & LOEVY  
BY: MS. LAUREN CARBAJAL  
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For Defendant  
City of Chicago: REITER BURNS LLP  
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Court Reporter: MS. CAROLYN R. COX, CSR, RPR, CRR, FCRR  
Official Court Reporter  
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1 APPEARANCES CONTINUED:

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3 For Defendants

4 Retired City Employees:

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6 For Defendant

7 Joel Leighton:

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1 (The following proceedings were had telephonically:)

2 THE CLERK: Case 23 C 3158, Galvan v. Switski.

3 THE COURT: Can plaintiff's counsel please give your  
4 name for the record.

5 MS. CARBAJAL: Good morning, Judge. Lauren Carbajal  
6 and Roshna Bala Keen for plaintiff.

7 THE COURT: Thanks. And let's see. Start off with  
8 counsel for the City, let's say.

9 MS. EKL: Good morning, your Honor. Elizabeth Ekl on  
10 behalf of the City of Chicago.

11 THE COURT: Counsel for the defendants other than I  
12 think Leighton is the one who is separately represented.

13 MR. BARNETT: Yes, your Honor. Thank you. Shawn  
14 Barnett for we can call them retired City employees.

15 THE COURT: Got it.

16 And counsel for Mr. Leighton.

17 MS. BRAUN: Michele Braun on behalf of Joel Leighton.

18 THE COURT: All right. Is there anybody else who  
19 hasn't given your name yet on the Galvan case and the related  
20 cases?

21 Okay. So the dispute, I think, if I'm getting it  
22 right, has to do with whether -- if I kind of simplify it,  
23 this dispute has to do with whether the plaintiff should get  
24 to look at the mental health records and assert a privilege on  
25 them before they get turned over or whether I should decide

1 right now that the privilege has been waived as to all such  
2 records.

3 Is that a reasonable summary of the dispute?

4 And whoever is clicking or clacking, can you please  
5 mute your phone? Thanks.

6 Is that a reasonable summary?

7 MS. CARBAJAL: Yes, your Honor, I think so.

8 MR. BARNETT: Shawn Barnett. Yes, your Honor, that  
9 is.

10 THE COURT: Okay. Thanks, Mr. Barnett, for saying  
11 your name.

12 Okay. So, look, it's really hard to do this stuff in  
13 a vacuum. I mean, I can imagine a scenario in which  
14 somebody's mental health records included something when they  
15 were a little kid where they had been -- you know, had been in  
16 some sort of, you know, school-associated mental health  
17 treatment that might not have any bearing on, and conceivably  
18 might not be waived by, a claim for emotional distress and  
19 related damages and something that happens from -- from  
20 something that happens a good number of years later.

21 I'm not saying that's the only type of situation  
22 where there might be a viable claim that there wasn't a  
23 privilege waiver, but the fact that there's a possibility of  
24 something that might not survive even if I take, I guess, the  
25 broadest view of the what I'll call implicit waiver principle,

1 I think counsel's in favor of keeping the protective order the  
2 way it is.

3 My guess is is that most of this stuff is going to  
4 work out in the wash. I suspect there's probably not going to  
5 be a large volume of mental health records anyway. If there  
6 are, it's likely that they're going to be things that will be  
7 pretty easily determined to be related enough that even under  
8 a narrower version of the implicit waiver, that they'd be  
9 produceable and I won't end up having to deal with any  
10 disputes.

11 So to the extent that the response by the defendants  
12 is basically a motion to strike whatever the particular  
13 paragraph of the particular protective order is, it's denied,  
14 and I'm just going to kind of wait and see whether I have to  
15 decide anything or not.

16 So there you go.

17 Do we have another status date coming up? We do,  
18 right? I don't need to make you call in for that. It's  
19 probably not going to -- I'm just looking back at the schedule  
20 here.

21 Yeah, it's in a couple of weeks.

22 So why don't you just tell me what's going on right  
23 now, and I can vacate that date. Where are things in terms  
24 of -- I mean, I'm assuming there have been no depositions.  
25 Where are you in terms of issuing written discovery and

1 responding to it?

2 Just say you are so the court reporter can take it  
3 down.

4 MR. BARNETT: Shawn Barnett, your Honor. The parties  
5 have exchanged written discovery. From my clients, we have  
6 responded to nearly all of them. The estate's is a little  
7 trickier. But we were going to start talking about scheduling  
8 depositions for some time in March.

9 THE COURT: Okay. Anybody else want to weigh in on  
10 that?

11 MS. CARBAJAL: Yeah, this is Lauren Carbajal for  
12 plaintiffs. We -- and we've scheduled one deposition so far,  
13 but we've exchanged discovery from the plaintiff's end as  
14 well.

15 THE COURT: All right. Anybody else want to say  
16 anything on the discovery status?

17 Okay. So there's a status hearing which I think is  
18 set for the 23rd of February. That's vacated. And I'm going  
19 to reset it in a couple of months. And that -- by the way,  
20 Melissa, we need to do this in all three of the cases,  
21 including the ones that are assigned to Judge Ellis and Judge  
22 Jenkins. That's 3162 and 3165.

23 And, let's see, April. Is there anybody who can't do  
24 a phone call on, let's say, April the 29th at 8:50 in the  
25 morning?

1 I'm going to assume that's okay. 8:50 on April  
2 the 29th, all three cases; a joint status report a week before  
3 that; and any earlier joint status report dates are vacated,  
4 so you don't need to file one in February.

5 Thanks a lot.

6 MS. CARBAJAL: Oh, Judge, if I may ask one question  
7 before we get off?

8 THE COURT: Yes.

9 MS. CARBAJAL: This is Lauren again; Lauren Carbajal  
10 again. Hi. Just for everyone's knowledge, should we be  
11 filing any motions that we have in all three cases or is it  
12 sufficient just to file in this one?

13 THE COURT: File it just in this one. The reason I  
14 entered the protective order in all three cases is it's an  
15 order and I figured at some point, the cases may end up going  
16 in separate tracks, and it's important just to -- it was  
17 important to have that in all three cases.

18 I think you can just file the motions in one. I  
19 would put all three captions on it, but you don't need to  
20 multiple file them. If you do, what will end up happening is  
21 I'll start getting confused calls from other people saying,  
22 what am I supposed to do with this? I thought you were  
23 handling this case.

24 MS. CARBAJAL: Great. Thank you so much.

25 THE COURT: All right. Take care, everybody. Bye.



1 (Which were all the proceedings had in the above-entitled  
2 cause on the day and date aforesaid.)

3 I certify that the foregoing is a correct transcript from  
4 the record of proceedings in the above-entitled matter.

5 /s/ Carolyn R. Cox, CSR, RPR, F/CRR February 20, 2024  
6 Official Court Reporter  
7 United States District Court  
8 Northern District of Illinois  
9 Eastern Division  
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**UNITED STATES DISTRICT COURT  
FOR THE Northern District of Illinois – CM/ECF NextGen 1.7.1.1  
Eastern Division**

John Galvan

Plaintiff,

v.

Case No.: 1:23-cv-03158

Honorable Matthew F. Kennelly

Victor Switski, et al.

Defendant.

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**NOTIFICATION OF DOCKET ENTRY**

This docket entry was made by the Clerk on Thursday, February 8, 2024:

MINUTE entry before the Honorable Matthew F. Kennelly: Telephonic motion hearing held on 2/8/2024. The defendants' request to strike section E(2) of the protective order [112] is denied as to the reasons stated on the record. The telephonic status hearing set for 2/23/2024 is vacated and reset to 4/29/2024 at 8:50 a.m. The parties are directed to file a joint status report providing an update on the case by 4/22/2024. Any earlier joint status report deadlines are vacated. The following call-in number will be used for the hearing: 888-684-8852, access code 746-1053. Persons granted remote access to proceedings are reminded of the general prohibition against photographing, recording, and rebroadcasting of court proceedings. Violation of these prohibitions may result in sanctions, including removal of court issued media credentials, restricted entry to future hearings, denial of entry to future hearings, or any other sanctions deemed necessary by the Court. Mailed notice. (mma, )

**ATTENTION:** This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by CM/ECF, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

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